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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER O'KEEFE,

Plaintiff,

vs.

BOSTON MUTUAL LIFE INSURANCE  
COMPANY, an unknown business entity, and  
DOES 1 through 50 inclusive

Defendants.

Case No. 07 CV 2409 L RBB

**PLAINTIFF'S EARLY NEUTRAL  
EVALUATION STATEMENT**

Date: February 21, 2008

Time: 2:00 pm

Magistrate: Hon. Ruben B. Brooks

Room: 1185

Complaint Filed: Nov. 16, 2007

**I.**

**BRIEF DESCRIPTION OF THE CASE AND CLAIMS PRESENTED**

This action arises out of a coverage dispute wherein Plaintiff seeks recovery of disability benefits due him as an insured under the terms and conditions of a disability insurance policy, (hereinafter "Policy"), issued by BOSTON MUTUAL to Plaintiff. Plaintiff also seeks the consequential damages suffered as a result of BOSTON MUTUAL's bad faith denial of his claim.

On December 29, 2003, O'KEEFE survived a life-altering car accident. While driving on a busy freeway, another vehicle turned abruptly in front of him. O'KEEFE made an evasive maneuver and lost control of his vehicle. His car spun and flipped three times and came to rest on a parallel access road. O'KEEFE was tossed about badly within his vehicle. His seatbelt

1 snapped. His head, when smashed against the windshield, shattered it.

2 ~~O'KEEFE was diagnosed with Post Traumatic Stress Disorder (PTSD). Disability~~  
3 RMS (hereinafter sometimes referred to as "RMS"), the claims administrator for BOSTON  
4 MUTUAL LIFE INSURANCE COMPANY, and Ms. Deborah Murphy, RMS's Senior Disability  
5 Analyst, were aware that Mr. O'KEEFE suffered from PTSD. They were also aware that Mr.  
6 O'KEEFE, in an effort to manage his great pain, remained heavily medicated.. Between his  
7 physical maladies and the psychological effects which derive from them, Mr. O'KEEFE is  
8 disabled. Nevertheless, RMS, acting on behalf of BOSTON MUTUAL, demanded that  
9 O'KEEFE provide an extensive list of very specific documentation regarding his claim. Initially,  
10 O'KEEFE could not respond. RMS did not investigate, but did suspend Mr. O'KEEFE's  
11 benefits.

12 Mr. O'KEEFE then provided RMS with a proof of loss, and for awhile RMS reluctantly  
13 made payments to Mr. O'KEEFE under a reservation of rights. Then, fully aware of Mr.  
14 O'KEEFE's debilitating illness, and aware that the policy contains no language authorizing such  
15 a request, RMS required additional, very specific documentation and used the excuse that the  
16 disabled insured could not respond in order to deny his family the benefits for which Mr.  
17 O'KEEFE had bargained.

18 On or about February 18, 2005, it became necessary for O'KEEFE to retain the services  
19 of the law firm of McDonnell & Associates in order to represent him in recovering the benefits.  
20 O'KEEFE made his claim to disability RMS on or about January of 2003, but not until  
21 approximately four years later, on September 20, 2007 did Disability RMS make a determination  
22 that O'KEEFE did not meet the definition of disability as defined in his policy. During that four  
23 year period, Disability RMS and McDonnell & Associates exchanged volumes of  
24 correspondence demonstrating that it was necessary to involve counsel to constantly demand that  
25 O'KEEFE receive payments that were due him. During this period, it was common practice for  
26 RMS to make one or two payments under reservation and to demand extensive documentation  
27 that they claimed was necessary in order to complete their investigation. But, when the requested  
28 documentation was produced, RMS would only demand still more documentation.

1 For the foregoing reasons, O'KEEFE has brought this instant action against BOSTON

2 MUTUAL for causes of action including Breach of Contract, Breach of the Implied Covenant of  
3 Good Faith and Fair Dealing, and Unfair Business Practices.

4 **II.**

5 **SPECIFIC AND CURRENT DEMAND FOR SETTLEMENT**

6 O'KEEFE seeks damages, interest at 10% per annum, punitive damages, attorneys' fees  
7 and other costs of suit.

8 O'KEEFE was a successful trial lawyer with his own busy practice. He was making  
9 approximately twenty five thousand dollars (\$25,000.00) per month for his services to his clients.

10 Due to BOSTON MUTUAL's failure to adjust his claim, O'KEEFE was forced to sell his  
11 residence at Five Hundred Thousand Dollars (\$500,000.00) below market value. O'KEEFE was  
12 forced to abruptly close his business due to the failure of bargained for benefits which resulted in  
13 the inability to collect One Million Three Hundred Thousand Dollars (\$1,300,000.00) in  
14 accounts receivable. He was forced to liquidate his office furniture and equipment worth One  
15 Hundred Fifty Thousand Dollars (\$150,000.00); to sell his vehicle for (\$125,000.00); to liquidate  
16 an investment portfolio worth Two Hundred Ninety Eight Thousand Nine Hundred Eighty Seven  
17 Dollars and Thirty Four Cents (\$298,987.34); to liquidate a retirement account worth One  
18 Hundred Ninety Seven Dollars Six Hundred Fifteen Dollars and Nine Cents (\$197,615.09); and  
19 to liquidate his son's college plan worth Fifty Six Thousand Nine Hundred and Eighty Seven  
20 Dollars (\$56,987.00). BOSTON MUTUAL failed to pay Medical Expenses in the amount of  
21 Forty Five Thousand Eight Hundred Seventy Six Dollars (\$45,876.00). Finally, and due to  
22 BOSTON MUTUAL's failure to pay O'KEEFE'S bargained for benefits along with their bad  
23 faith in handling his claim, O'KEEFE suffered severe emotional distress damages. Pursuant to  
24 the above, O'KEEFE's specific and current demand for settlement is Four Million Six Hundred  
25 Seventy Seven Thousand Four Hundred Sixty Five Dollars and Forty Three Cents  
26 (\$4,677,465.43).

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III.

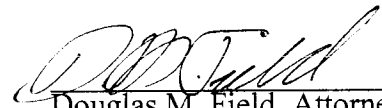
**BRIEF DESCRIPTION OF ANY PREVIOUS SETTLEMENT NEGOTIATIONS**

Plaintiff has had numerous phone conversations and has exchanged many letters with BOSTON MUTUAL to encourage them to settle O'KEEFE's claim. BOSTON MUTUAL refused to do so, and Plaintiff was left with no other choice than to file this action.

Respectfully Submitted:

DATED: February 19, 2008

McDONNELL & ASSOCIATES

  
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Douglas M. Field, Attorney for  
O'KEEFE